

Exhibit 6

Medicaid requirements; when making remedy choices, the CMS RO should consider the extent to which the noncompliance is the result of a one-time mistake, larger systemic concerns, or an intentional action of disregard for resident health and safety.

7400.3.1 – Matrix for Scope & Severity

(Rev. 185, Issued: 11-16-18, Effective: 11-16-18, Implementation: 11-16-18)

Immediate jeopardy to resident health or safety	J ■■■	K ■■■	L ■■■
Actual harm that is not immediate	G ■■■	H ■■■	I ■■■
No actual harm with potential for more than minimal harm that is not immediate jeopardy	D ■■■	E ■■■	F ■■■
No actual harm with potential for minimal harm	A ■■■ No PoC	B ■■■	C ■■■
Isolated	Isolated	Pattern	Widespread

■ Substandard Quality of Care (SQC) is defined in 42 C.F.R. §488.301 as one or more deficiencies which constitute either immediate jeopardy to resident health or safety; a pattern of or widespread actual harm that is not immediate jeopardy; or a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm, related to certain participation requirements.

■ Substantial compliance means a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm. Substantial compliance constitutes compliance with participation requirements (42 C.F.R. §488.301).

7400.4 – Other Factors That May Be Considered in Selecting Enforcement Remedy Within a Remedy Category

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Additional factors that may be considered to assist in determining which and/or how many remedies to impose within the available remedy categories for levels of noncompliance, include but are not limited to:

- The relationship of one deficiency to other deficiencies;

- The facility's prior history of noncompliance in general, and specifically with reference to the cited deficiencies; and
- The likelihood that the selected remedy(ies) will achieve correction and continued compliance.

EXAMPLE: If failure to spend money is the root cause of the facility's noncompliance, then any civil money penalty that is imposed should at least exceed the amount saved by the facility by not maintaining compliance.

7400.6 – When To Select Remedy From Specific Remedy Category

(Rev. 63, Issued: 09-10-10, Effective: 09-10-10, Implementation: 09-10-10)

7400.6.1 – Category 1

(Rev. 63, Issued: 09-10-10, Effective: 09-10-10, Implementation: 09-10-10)

Select at least one remedy from category 1 when there are isolated deficiencies that constitute no actual harm with a potential for more than minimal harm but not immediate jeopardy; or

- are isolated deficiencies that constitute no actual harm with a potential for more than minimal harm but not immediate jeopardy; or
- is a pattern of deficiencies that constitutes no actual harm with a potential for more than minimal harm but not immediate jeopardy.

EXCEPT when the facility is in substantial compliance, one or more of the remedies in category 1 may be applied to any deficiency.

CATEGORY 1 remedies include:

- Directed plan of correction (see §7500);
- State monitoring (see §7504); and
- Directed in-service training (see §7502).

NOTE: As an agent of CMS or the State Medicaid Agency, the State may impose one or more category 1 remedies, as authorized by CMS or the State Medicaid Agency, in accordance with §7314.

7400.6.2 – Category 2

(Rev. 213; Issued: 02-10-23; Effective: 02-10-23, Implementation: 02-10-23)

Select at least one remedy from category 2 when there are:

Severity	Scope		
	Isolated	Pattern	Widespread
Immediate jeopardy to resident health or safety	J	K	L
Actual Harm that is not immediate jeopardy	G	H	I
No actual harm with the potential for more than minimal harm that is not immediate jeopardy	D	E	F
No actual harm with a potential for minimal harm	A	B	C